



## **RESOURCES FOR TOWN EMPLOYEES AND VOLUNTEERS**

**Town of Arlington, MA**

**Legal Department**

This document was compiled to act as a guide to the many state and local requirements that Town of Arlington employees and volunteers must comply with in their daily duties. This guide provides answers to common questions about these requirements and includes links to further reading. If you have comments or suggestion about this guide, please direct them to Town Counsel at (781) 316-3151.

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### New Employees and Volunteer Checklist

#### State Conflict of Interest Law

Within 30 days of hire or swearing in, all employees, board and commission members\* must:

- ☐ Read and acknowledge receipt of the State Ethics Commission's Summary of the Conflict of Interest Law for Municipal Employees; and
- ☐ Complete the Ethics Commission's on-line training program and file your certificate with the Town Clerk or e-mail it to [ethics@town.arlington.ma.us](mailto:ethics@town.arlington.ma.us)

Links to both the Summary and the Training can be found below.

*\* Town Meeting Members are not subject to the Conflict of Interest Law*

#### Open Meeting Law

Within 2 weeks of being sworn in, all board and commission members must:

- ☐ Read the Division of Open Government's Open Meeting Law materials (provided below); and
- ☐ Read a copy of each of the Open Meeting Law decisions received by your Board within the last 5 years (please check with the Legal Department); and
- ☐ Sign the certificate of receipt with the Town Clerk or e-mail it to [openmeeting@town.arlington.ma.us](mailto:openmeeting@town.arlington.ma.us)

#### Public Records Law

- ☐ Read the Public Records Laws below.

#### Anti-Harassment/Anti-Discrimination Policy

- ☐ Read the below Anti-Harassment/Anti-Discrimination Policy



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### **The Open Meeting Law**

M.G.L. c. 30A sec. 18-25, the "Open Meeting Law" serves to ensure transparency by our decision-making committees, commissions and boards. The Legal Department serves as a resource for Town officials and volunteers to maintain open governance in keeping with the law, as well as to assist in navigating where exemptions may apply as also set forth in the law.

The Open Meeting Law applies to all Town public bodies – committees, commissions, and boards. If you have any question about the status of a Town entity's status as a public body, please contact the legal department.

The full text of the Open Meeting Law can be found here:

<https://www.mass.gov/files/documents/2017/10/12/OML%20Text.pdf>

### **Requirements for Individual Members of Public Bodies**

- Within two weeks of a member's election or appointment or the taking of the oath of office, all members of public bodies must review Open Meeting Law Materials provided by the Attorney General's Division of Open Government. The materials may be found here:

[https://www.mass.gov/files/documents/2018/01/30/2017%20Guide%20with%20ed%20materials\\_revised%201-30-18.pdf](https://www.mass.gov/files/documents/2018/01/30/2017%20Guide%20with%20ed%20materials_revised%201-30-18.pdf)

- Members should complete a Certificate of Receipt for the training materials should be filed with the Town Clerk or electronically at: [openmeeting@town.arlington.ma.us](mailto:openmeeting@town.arlington.ma.us) Certificates may be found here:

<https://www.mass.gov/files/documents/2017/09/26/Certificate%20of%20Receipt%20of%20Open%20Meeting%20Law%20Materials.pdf>

- Members should also familiarize themselves with any Open Meeting Law determinations issued to the member's public body within the last five years. Determinations may be found here:

- <https://massago.onbaseonline.com/MASSAGO/1801PublicAccess2/oml.htm>

### **Requirements for Public Bodies**

For a full recitation of requirements and for public bodies and other parameters of the Open Meeting Law, please refer to the most recent version of the Attorney General's Open Meeting Law Guide found here:



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[https://www.mass.gov/files/documents/2018/11/15/2017%20Guide%20with%20ed%20materials\\_revised%201-30-18.pdf](https://www.mass.gov/files/documents/2018/11/15/2017%20Guide%20with%20ed%20materials_revised%201-30-18.pdf)

Key requirements include:

- Refraining from communicating about a matter under your jurisdiction among a quorum outside of a properly noticed public meeting and/or discussing matters which were not properly noticed in advance of a meeting.
- Noticing meeting times and dates, locations, and all reasonably anticipated subjects of discussion at least 48 hours in advance (excluding Saturdays, Sundays, and Legal Holidays) on the Town's Website and the Town Clerk's Office.

A checklist for public bodies regarding notice of meetings may be found here:

<https://www.mass.gov/files/documents/2017/09/25/Public%20Body%20Checklist%20-%20Notice.pdf>

- Maintaining meeting minutes and materials used at meetings including:
  - the date, time and place of the meeting;
  - members present or absent;
  - a summary of decisions made and actions taken, including a record of all votes;
  - a summary of the discussions on each subject;
  - a list of all documents and exhibits used at the meeting; and
  - the name of any member who participated in the meeting remotely

\*Each body must also review, approve and publish meeting minutes (including executive session minutes, discussed further below) within 30 days of their meeting, or within its next three scheduled meetings, whichever occurs later. A checklist for public bodies on meeting minutes may be found here:

<https://www.mass.gov/files/documents/2017/09/25/Public%20Body%20Checklist%20-%20Minutes.pdf>

- Entering executive session following proper procedures for proper purposes.



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- The ten purposes of executive session are enumerated in G.L. c. 30A sec. 21, and are listed and discussed at length in the Division of Open Government's Guide.
- A checklist for entering executive session may be found here: <https://www.mass.gov/doc/public-body-checklist-for-entering-into-executive-session/download>

### Further Reading

Further Informational and Training Materials from the Division of Open Government, including training videos, opportunities for live training classes, complaints, determinations and answers to frequently asked questions on common topics, including:

- remote participation,
- quorums and deliberations,
- personnel evaluations, and
- preliminary screening committees,

may be found on the Division of Open Government's website:

<https://www.mass.gov/the-open-meeting-law>



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### The Conflict of Interest Law

M.G.L. c. 268A, also known as the state ethics law protects the public's interest by ensuring ethical conduct of municipal employees and volunteers. It is incumbent on each individual Town employee to understand and comply with the Conflict of Interest Law.

Town "employees," is broadly defined to include paid and unpaid, full and part-time, positions in service of the Town. **However, the ethics law does not apply to Town Meeting Members.**

A very limited number of Town staff or appointees are considered "Special Municipal Employees," with modified rules and requirements. You should assume that if you are working directly for the as paid staff or a volunteer board or committee member, you are a "Municipal Employee" under the law, unless advised otherwise.

The full text of the Conflict of Interest Law may be found here:

<https://www.mass.gov/service-details/gj-c-268a-the-conflict-of-interest-law-as-amended-by-c-194-acts-of-2011>

### Requirements for Town Employees

- Within 30 days of hire or appointment, every Town employee should review a copy of the State Ethics Commission's "Summary of the Conflict of Interest Law for Municipal Employees" and sign a certification saying you have received it.

A summary of the law as it applies to "regular" municipal employees may be found here:

<https://www.mass.gov/service-details/summary-of-the-conflict-of-interest-law-for-municipal-employees>

- Every year, all Town employees (including elected officials and committee members must receive the summary (linked above) and certify such receipt.
- The State Ethics Commission also provides FAQs and guides for specific categories of municipal employees, including specific boards and committees, public school teachers, elected officials, etc. Employees and



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volunteers may find these position-tailored guides here:

<https://www.mass.gov/service-details/explanations-of-the-conflict-of-interest-law>

- Every two years, all Town employees must complete an on-line training program or attend a presentation concerning the State Ethics Law and certify their completion. The training

<https://www.mass.gov/how-to/complete-the-online-training-program-for-municipal-employees>

- A copy of each receipt (trainings and summaries) must be filed with the Town Clerk and/or e-mailed to [ethics@town.arlington.ma.us](mailto:ethics@town.arlington.ma.us)

### *Advice and Opinions Regarding the Ethics Laws*

Town employees are entitled to a legal opinion from the Town Counsel on how to comply with the State Ethics Law in light of your official responsibilities and private interests. Informal advice may be offered. However, for a formal opinion, you must request the opinion in writing, describing all relevant facts and stating the question you want answered.

<https://www.arlingtonma.gov/Home/ShowDocument?id=47541>

The Town Counsel will then write you an opinion on how to conduct yourself to avoid violating the State Ethics Law. Your communications with the Town Counsel's office will be confidential, but if an opinion letter is issued, the letter will be a public record and will be sent to the State Ethics Commission.

Alternatively, you may contact the State Ethics Commission for free legal advice about the State Ethics Law. Go to the State Ethics Commission website [www.mass.gov/ethics](http://www.mass.gov/ethics) and look under Legal Services/Request Advice. You may also call the Commission at 617.371.9500.

Neither the Ethics Commission nor Town Counsel will give you opinions about someone else's conduct. You may inquire about your own conduct only.



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### **The Public Records Laws**

The Public Records Laws are a series of state laws that allows anyone to inspect or obtain copies of most governmental documents, often conflated with its federal counterpart, the "Freedom of Information Act" or "FOIA."

The Office of the Secretary of State of the Commonwealth through its Division of Public Records has provided a comprehensive guide to aid the public and local governments in navigating public records requests and related issues, which can be found here:

<https://www.sec.state.ma.us/pre/prepdf/guide.pdf>

### *Records Access Officers*

As provided under the revised public records laws, the Town of Arlington has designated its Assistant Town Manager as its Records Access Officer and created a Public Record Center, in which requests for records are processed in compliance with the law.

In order to ensure prompt service of public records requests, Town staff, officials, and Town boards and commissions are encouraged to forward all public records inquiries to the Record Center:

<https://www.arlingtonma.gov/departments/town-manager/public-records-center>

Arlington Public Schools records requests should be directed to:

[publicrecordsrequest@arlington.k12.ma.us](mailto:publicrecordsrequest@arlington.k12.ma.us)

The Legal Department provides guidance on how to respond to public records requests, particularly if exemptions may apply. However, public records requests should be funneled through Town or School Records Access Officer first.

### **Records Retention Schedule**

Public Records are maintained for varying lengths of time set by state law. Some records may be disposed of after use, while others must be retained for a period of years, or indefinitely. Furthermore, some records require permission from the Supervisor of Public Records prior to disposal. For a listing of current retentions schedules, please see the schedule below:

[https://www.sec.state.ma.us/arc/arcpdf/Municipal\\_Retention\\_Schedule\\_20190321.pdf](https://www.sec.state.ma.us/arc/arcpdf/Municipal_Retention_Schedule_20190321.pdf)





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### **Town of Arlington Discrimination, Harassment and Sexual Harassment Policy**

#### **I. Introduction**

It is the Town's goal to promote a workplace that is free of discrimination, harassment and sexual harassment. The Town considers the workplace any setting in which employees may find themselves in connection with their employment. Harassment is a form of discrimination, and sexual harassment is a type of harassment. It is a violation of this policy for any Town employee, vendor, contractor or volunteer (hereinafter "person") to discriminate against, harass, bully, intimidate, threaten, insult, retaliate against, or otherwise engage in any conduct, whether verbal or physical, against an employee, a member of the public engaging Town services or using Town facilities, a Town volunteer, or a Town vendor or contractor based on such individual's protected class status including race, color, religious creed, national origin, sex, sexual orientation, age, ancestry, disability, gender identity or expression, veteran status, and genetic information, pregnancy or pregnancy-related condition including, but not limited to, lactation or the need to express breast milk for a nursing child.

The Town takes allegations of discrimination, harassment, and sexual harassment seriously and will respond quickly to such allegations. If the Town finds that an individual has violated this policy, the Town will act promptly to eliminate the conduct, impose corrective action as the Town determines appropriate, including taking disciplinary action up to and including termination.

To achieve our goal of providing a workplace free from discrimination and harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Please note that while this policy sets forth our goals of promoting a workplace that is free of discrimination and harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual or general harassment.

#### **II. Definition of Sexual Harassment**

In Massachusetts, the legal definition for sexual harassment is this: "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:



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- a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances -- whether they involve physical touching or not
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess
- Displaying sexually suggestive objects, pictures, cartoons
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments
- Inquiries into one's sexual experiences, and
- Discussion of one's sexual activities

All employees should take special note that retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Town.



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### **III. Definition of General Harassment**

Employees are protected from harassment on the basis of their race, color, religious creed, national origin, sex, sexual orientation, age, ancestry, disability, gender identity, veteran status, and genetic information, pregnancy or pregnancy-related condition including, but not limited to, lactation or the need to express breast milk for a nursing child.

Prohibited behavior under this section includes slurs or other derogatory comments, objects, pictures, cartoons, or demeaning gestures connected to one's membership in a protected group.

All employees should take special note that, as stated above, retaliation against an individual who has complained about harassment, and retaliation against individuals for cooperating with an investigation of a harassment complaint will not be tolerated by the Town.

### **IV. Complaints of Harassment**

If any of our employees believes that he or she has been subjected to harassment, including sexual harassment or retaliation, the employee has the right to file a complaint with our organization. An individual who believes he/she has been subject to discrimination or harassment prohibited by this policy or who believes there is a violation of this policy should report the conduct to the Town's Human Resources Director, Caryn Malloy or the Town's Special Town Counsel, Edward Marlenga.

Supervisors, Managers, and Appointing Authorities who receive reports or complaints alleging discrimination, harassment or violations of this policy shall contact the Human Resources Director immediately. The Human Resources Director's office is located at Town Hall, 730 Massachusetts Avenue, Arlington, MA 02476, and the Human Resources Director can be reached at (781) 316-3121. The Special Town Counsel's office is located at 50 Pleasant Street, Arlington, MA 02476 and the Special Town Counsel can be reached at (781) 316-3150.

### **V. Harassment Investigation & Disciplinary Action**

The Town will investigate all complaints and reports of discrimination, harassment and violations of this policy. Such investigation will include interviews or report with the person making the complaint, the person to whom



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the complaint is directed, and may include interviews with employees or individuals who may have relevant information.

If it is determined that a violation of this policy has occurred, the Town will act promptly to eliminate the offending conduct, and where appropriate, impose disciplinary action that may include termination.

As mentioned above, it is a violation of this policy and it is unlawful to retaliate against a person for filing a complaint of harassment, discrimination or sexual harassment, or for cooperating in an investigation of any such complaint.

### **VI. State and Federal Remedies**

In addition to the above, any employee who believes he/she has been subjected to unlawful discrimination, harassment or sexual harassment may file a formal charge with either or both of the following government agencies: The Massachusetts Commission Against Discrimination and the Equal Employment Opportunity Commission. Each of these agencies has a 300-day time period for filing a charge. They are located at:

Massachusetts Commission Against Discrimination (MCAD)  
One Ashburton Place  
Boston, MA 02108  
(617)727-3990

U.S. Equal Employment Opportunity Commission (EEOC)  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
1-800-669-4000